

**WEST VALLEY CITY
BOARD OF ADJUSTMENT
MINUTES**

November 6, 2013

This meeting was called to order at 6:00 p.m. by Chairperson Necia Christensen at 3600 Constitution Boulevard, West Valley City, Utah.

WEST VALLEY CITY BOARD OF ADJUSTMENT MEMBERS

Necia Christensen, Russell Moore, Clover Meaders, and William Whetstone

Those Absent:

Scott Spendlove and Sandy Naegle

WEST VALLEY CITY PLANNING DIVISION STAFF

Steve Lehman and Nichole Camac

WEST VALLEY CITY LEGAL DEPARTMENT

Brandon Hill, Assistant City Attorney

AUDIENCE:

Approximately two (2) people were in the audience.

VARIANCES

B-8-2013

Chuck Grahmann – Variance

3181 South 4000 West

R-1-8 Zone

REQUEST:

Mr. Chuck Grahmann, is requesting a variance from Section 7-6-305(1) of the West Valley City Code. This section requires that the frontage of a lot in the R-1-8 zone be 80 feet. The applicant is requesting a frontage variance of 20 feet for the purpose of subdividing the existing property to create an additional building lot.

BACKGROUND:

WEST VALLEY CITY GENERAL PLAN recommends low density residential land uses.

- ☐ The subject property is known as parcel 15-29-301-010. This property is not part of a formally platted subdivision and is vacant at the present time. County records indicate that the property is approximately .36 acres in size.
- ☐ The applicant approached staff about the possibility of dividing the existing property into two lots. Staff learned that in addition to this property, the applicant had also purchased a piece of property immediately to the north consisting of approximately .19 acres. This property would be included in the overall subdivision should the variance be granted. Staff explained that the R-1-8 zone requires an 80-foot frontage and that a flag lot would require a minimum width of 20 feet for the stem. Since the property is only 80 feet wide, a variance would be needed in order to subdivide the property as intended.
- ☐ Staff explained the variance criteria and that the Board of Adjustment would need to evaluate the criteria in relation to the specifics of the property. Mr. Grahmann believes that the variance criteria can be satisfied and that two new homes in this area would be beneficial to the community.
- ☐ The property has a depth of approximately 226 feet from the right-of-way along 4000 West. The applicant believes that the depth of the properties along the east side of 4000 West are difficult to maintain because of their depth and costs associated with watering such large parcels. Properties on the west side of 4000 West are approximately 180 feet in depth.
- ☐ The applicant has prepared drawings that indicate the property could be subdivided to accommodate two lots. All requirements of the R-1-8 zone will be met including the area requirement of 8,000 square feet for the front lot and 13,000 square feet for the flag lot. Based on the remaining property, a home could be placed on the front lot meeting setback requirements from all property lines.
- ☐ Should the Board of Adjustment approve the variance, the applicant will be required to submit a minor subdivision application. The new single family dwellings would be required to meet all provisions of the City's housing standards.

□ **ORDINANCE SUMMARY:**

Section 7-6-305(1) of the West Valley City Land Use Development and Management Act requires that the minimum frontage of a lot in the R-1-8 zone be 80 feet.

The West Valley City Land Use Development and Management Act Section 7-18-107 outlines the standards or conditions for approving a variance. The Board of Adjustment may grant a variance only if:

1. Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district.
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district.
4. The variance will not substantially affect the general plan and will not be contrary to the public interest.
5. The spirit of the zoning ordinance is observed and substantial justice done.

According to Williams, American Land Planning Law (Volume 5, Criteria for the Validity of Variances, pages 131 and 133 et.seq.) there is a presumption against granting a variance and it can only be granted if each of the standards are met.

In Wells v. Board of Adjustment of Salt Lake City, the Utah Court of Appeals held that a Board's decision to grant a variance would be illegal if the required statutory findings were not made.

Steve Lehman presented the application.

Discussion: William Whetstone stated that he works with the applicant, Chuck Grahmann. Russell Moore asked when the piece of property behind the existing home was subdivided. Steve replied that he is unsure but stated that it was likely done through a deed and not a formal subdivision. He stated that the variance is for one property and everything will be cleaned up during the subdivision process.

Applicant:

Chuck Grahmann
3181 S 4000 W

1. **Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance.**

Mr. Grahmann stated that literal enforcement of the zoning ordinance will cause an

unreasonable hardship because most people do not want a property this deep. He indicated that without irrigation water the cost to maintain this property could be extreme. He stated that the property is not in use and is not maintained.

2. **There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district.**

Mr. Grahmann stated that the property has been in this configuration since the City's incorporation. It is approximately 20 feet more narrow at the east end than the west end. There is only one other property with angled property lines having this much depth from 4000 West.

3. **Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district.**

Mr. Grahmann stated that this variance would allow him to place a new home on property that is very consistent with other properties in this area. He stated that although the frontage will be less than the required 80-feet, the size of the lot is the same as others in the same zoning district.

4. **The variance will not substantially affect the general plan and will not be contrary to the public interest.**

Mr. Grahmann stated that the property is zoned for low density land uses. Part of the General Plan states that housing types considered for infill will have to be compatible in style and scale to the surrounding neighborhood. He indicated that he believes that new homes in this area will meet that objective.

5. **The spirit of the zoning ordinance is observed and substantial justice done.**

Mr. Grahmann stated that the spirit of the zoning ordinance is observed because the variance is relatively minor. The overall size of this parcel will still allow for the construction of a new home. The request is not out of character with other properties in this general area.

Discussion: Russell Moore asked if Mr. Grahmann knew when the property behind the existing home was split. Mr. Grahmann replied that he isn't sure but believes it was over 20 years ago. William Whetmore asked if two single family homes are being considered for the lots. Mr. Grahmann replied yes and indicated specific home designs haven't been decided but a narrower home will be designed for the thinner parcel and a typical rambler will likely be built on the rear parcel. Necia Christensen asked if access can be shared to both homes to allow for a side garage on the front parcel. Steve replied this can be done but is often difficult for maintenance and Fire Department standards. Clover Meaders asked if the rear lot will remain vacant if no action is taken on the property at this meeting. Mr. Grahmann replied most likely yes unless someone wanted to purchase maintain a large lot.

There being no further discussion regarding this application, Chairperson Christensen called

for a motion.

Motion

Mr. Moore moved for denial based on failure to meet criteria number one.

Ms. Meaders seconded the motion.

Discussion: Ms. Christensen stated that a large piece of property, such as this, is difficult to maintain. She indicated that this will likely remain a weed patch unless the property is subdivided into more manageable sized lots. Mr. Whetstone agreed and indicated that the cost of maintaining this property would be extreme. Mr. Moore stated that the Board of Adjustment cannot look at monetary gain or loss in deciding action for a variance. Brandon Hill agreed and indicated that criteria one really asks whether there is a reasonable use for the property not related to cost. Ms. Christensen stated that an empty lot negatively effects neighbors and is difficult to maintain for the property owner. She indicated that the City consists of many older residents that don't have the ability to care for a large piece of property.

The Board discussed each of the criteria beginning with number 2. Mr. Moore stated that the lot is still rectangular and can be used. Ms. Christensen stated that the depth of the lot makes the property difficult and atypical. Ms. Christensen stated that she feels the applicant meets criteria number 3 because the depth and size of the lot is not consistent with surrounding properties. She indicated that if the lot were typical of an R-1-8 zone it would be smaller and more manageable. Mr. Whetstone agreed and added that it does cause visual blight in the neighborhood. He stated that it would be in the best interest for the community to have this property develop. Ms. Meaders asked if flag lots are typical and questioned whether they are designated in the General Plan (relating to criteria number 4). Steve replied that they are allowed and are neither encouraged nor discouraged in the City's General Plan. He indicated that flag lots help develop property that can be difficult which is good from a land use perspective. Ms. Christensen stated that 20 feet is not a minor request but she doesn't feel it's out of character with the rest of the neighborhood and the zoning ordinance is being observed as criteria 5 requests.

Ms. Christensen stated that not being able to maintain a lot this large is an unreasonable hardship. Ms. Meaders disagreed and indicated that she doesn't know whether it is difficult to maintain land that has already been purchased. Ms. Christensen indicated that she feels the City is better off with homes and not weed patches. Brandon stated that number one questions whether the hardship on this property is unreasonable and goes beyond what a typical land owner should endure. Ms. Christensen stated that the land is unusable in many ways and is not something neighbors, the applicant, or the City likes to see. Steve stated that the surrounding area is zoned R-1-8 and there is a flag lot across the street from this as well. Mr. Moore replied that this would make the lot peculiar in size to the surrounding properties with the same zone.

Necia Christensen re-opened the public hearing.

Mr. Grahmann stated that the property will likely forever be a weed patch unless it can be divided into more manageable pieces. He indicated that the property is not zoned agricultural and so a resident would not be able to have horses. He stated that R-1-8 lots are typically much smaller and much easier to maintain.

A roll call was taken.

Ms. Meaders	Yes
Mr. Moore	No
Mr. Whetstone	No
Chairperson Christensen	No

Motion for denial fails - B-8-2013– Majority

There being no further discussion regarding this application, Chairperson Christensen called for a second motion.

Motion

Mr. Whetstone moved for approval based on the response to the criteria.

Mr. Moore seconded the motion.

A roll call was taken.

Ms. Meaders	No
Mr. Moore	Yes
Mr. Whetstone	Yes
Chairperson Christensen	Yes

Motion for approval carries - B-8-2013– Majority

OTHER

The minutes from **July 3, 2013** were **continued**.

The minutes from **September 4, 2013** were **approved**.

There being no further business the meeting adjourned at 6:55 p.m.